

March 29, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

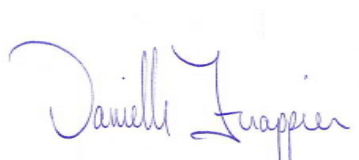
Re: WC Docket 09-197, Amendment to Petition of True Wireless, LLC for Designation as an Eligible Telecommunications Carrier for Low Income Support Only

Dear Secretary Dortch:

Attached please find an amendment to True Wireless, LLC's Petition for Designation as an Eligible Telecommunications Carrier for Low Income Support Only, which is currently pending before the Commission. This amendment is being filed to satisfy the new requirements adopted in the Commission's recent Lifeline Reform Order.¹

Should the Commission have any questions about this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,



Danielle Frappier

¹ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012).

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Carriers Eligible to)	
Receive Universal Service Support)	
)	WC Docket No. 09-197
Petition of True Wireless, LLC for)	
Designation as an Eligible)	
Telecommunications Carrier for Low)	
Income Support Only)	

**AMENDMENT TO PETITION OF TRUE WIRELESS, LLC
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
FOR LOW INCOME SUPPORT ONLY**

True Wireless, LLC (“True Wireless”), through its undersigned counsel, respectfully submits this Amendment to its Petition for designation as an Eligible Telecommunications Carrier (“ETC”) for the sole purpose of qualifying for Lifeline support filed on December 22, 2011 in the above-captioned docket. The Amendment is submitted in order to reflect changes to the Commission’s Lifeline rules and policies promulgated in the *Lifeline Reform Order*¹ and the *USF/ICC Order on Reconsideration*.² This Amendment is filed contemporaneously with True Wireless’ proposed Compliance Plan, in which it seeks forbearance from the “own facilities” requirement.³ True Wireless hereby amends its Petition as follows:

¹ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”).

² *Connect America Fund, et al.*, Order on Reconsideration, Docket Nos. WC 10-90, *et al.* (December 23, 2011) (“*USF/ICC Order on Reconsideration*”).

³ *Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible to Receive Universal Service Support; True Wireless, LLC Petition for Designation as an Eligible Telecommunications Carrier for Low Income Support Only*, Compliance Plan of True Wireless, LLC (filed March 29, 2012) (“*Compliance Plan*”).

I. AMENDMENT TO REQUESTED DESIGNATED SERVICE AREA FOR ETC DESIGNATION

In its Petition, True Wireless requested ETC designation for wireless service in the specific non-rural, incumbent local exchange carriers (“ILEC”) service territories listed in Exhibit A, which are located in the following states: Alabama, Connecticut, Delaware, Florida, New Hampshire, New York, North Carolina, Tennessee, and Virginia.⁴ True Wireless hereby amends its Petition to add the District of Columbia to this list. The District of Columbia has declined or otherwise lacks jurisdiction over wireless services. Attached as Exhibit C is an order of the District of Columbia Public Service Commission in which it disavows authority to consider ETC designation petitions of wireless carriers such as True Wireless. True Wireless also amends its Petition to request all non-rural areas of all ten states regardless of the underlying ILEC territory.

II. AMENDMENT TO REQUEST FOR LINK UP SUPPORT

True Wireless hereby withdraws its request for Link Up support.

III. AMENDMENT TO SERVICES SUPPORTED BY USF MECHANISMS

In paragraph 3 of the *USF/ICC Order on Reconsideration*, the Commission revised 47 C.F.R. § 54.101(a) to read as follows:

Services designated for support. Voice telephony services shall be supported by federal universal support mechanisms. Eligible voice telephony service must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible telecommunications carrier’s service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).

⁴ Petition at 1.

True Wireless complies with the revised version of 47 C.F.R. § 54.101(a) and provides the services designated for support. Accordingly, True Wireless hereby replaces Section II(C) of its Petition to address the requisite supported services as follows:

- Voice Grade Access to the Public Switched Network: Voice grade access permits a telecommunications user to transmit and receive voice communications with a minimum bandwidth of 300 to 3,000 Hertz. True Wireless will meet this requirement through its provision of mobile voice communications service and interconnection to the public switched telephone network.
- Minutes of Use for Local Service at No Additional Charge. Local usage is an amount of minutes of use provided free of charge. True Wireless will meet this requirement by providing multiple calling plans, all of which offer a nationwide local calling area, permitting customers to call anywhere in the United States without toll charges.
- Access to Emergency Services. Access to emergency services includes both access to 911 and E911 services to the extent the local government has implemented such services. True Wireless currently: (1) provides its Lifeline subscribers with 911/E911 access at the time Lifeline service is initiated, regardless of activation status and availability of minutes, and (2) provides its Lifeline subscribers with E911-compliant handsets and replaces, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services.
- Toll Limitation Service for Qualifying Low-Income Consumers. Toll limitation means both toll blocking and toll control, or, if a carrier is not capable of providing both toll blocking and toll control, then toll limitation is defined as either toll blocking or toll control. True Wireless will meet the requirement to provide toll limitation to Lifeline

subscribers by offering service on a prepaid, or pay-as-you-go, basis, as well as toll blocking for international calls. As the Commission found in its grant of ETC designation to Virgin Mobile, “the prepaid nature of [a prepaid wireless carrier’s] service offering works as an effective toll control.”⁵ Moreover, True Wireless will provide traditional toll blocking for international calls to qualifying low income consumers at no additional charge. True Wireless also provides its users with the ability to monitor their minute usage and balance as an additional means of controlling their communications budget.

IV. REQUEST FOR FORBEARANCE FROM THE “OWN FACILITIES” REQUIREMENT

True Wireless hereby amends Section II(D) of its Petition to request that the Commission forbear from applying the “own facilities” requirement of 47 U.S.C. § 214(e)(1)(A) to Lifeline-only applications that comply with the conditions set forth in paragraphs 368 – 380 of the *Lifeline Reform Order*. True Wireless’ Compliance Plan is filed contemporaneously herewith.

V. TRUE WIRELESS’ ADVERTISEMENT AND DISCLOSURE POLICIES AND PRACTICES

In Section II(F) of its Petition, True Wireless certified that it will advertise the availability of, and charges for, the supported services using media of general distribution, in compliance with 47 C.F.R. § 54.201(d)(2). This advertising will occur through some combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet.

In addition, True Wireless will comply with the new advertising, marketing and disclosure requirements set forth in 47 C.F.R. § 54.405. Specifically, all of True Wireless’ print,

⁵ *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, 24 FCC Rcd. 3381, 3394 at ¶ 34 (FCC 2009).

audio, video and Internet material used to describe or enroll subscribers in the Lifeline service offering will indicate, using easily understood language (1) that True Wireless' low income targeted service is a Lifeline service; (2) that Lifeline is a government assistance program; (3) that the service is non-transferable; (4) that only eligible consumers may enroll in the program; and (5) that the program is limited to one discount per household.

VI. TRUE WIRELESS' POLICIES AND PRACTICES PERTAINING TO SUBSCRIBER ELIGIBILITY, INITIAL CERTIFICATIONS AND ANNUAL VERIFICATIONS

Section II(K) of True Wireless' Petition described the process by which True Wireless intended to comply with the Commission's regulations in existence as of December 2011 pertaining to certification of eligibility and verification of continued eligibility for Lifeline benefits. The *Lifeline Reform Order* made significant changes to 47 C.F.R. § 54.410 (subscriber eligibility determinations and certification) and 47 C.F.R. § 54.416 (annual verifications). True Wireless will certify and verify consumer eligibility in strict conformance with these revised regulations. True Wireless' specific policies and practices with respect to subscriber eligibility are described in detail in Sections II(A) and II(B) of True Wireless' Compliance Plan. True Wireless' policies and practices with respect to annual verifications of subscriber eligibility are described in detail in Section II(C) of True Wireless' Compliance Plan.

VII. TRUE WIRELESS' SERVICE OFFERING

As described in its Compliance Plan, True Wireless will offer the following prepaid wireless service plan under the Lifeline program: 90 minutes of nationwide calling for a monthly charge of \$9.25 for non-Lifeline subscribers, and no monthly charge for Lifeline subscribers after application of the standard \$9.25 discount. The service includes a 911-compliant handset and the following at no additional charge: voicemail, call waiting, caller ID, balance inquiries

and calls to emergency 911 services. Unused minutes do not carry over to the following month. Subscribers may purchase additional blocks of minutes in 100, 250 or 400 minute increments for \$10, \$20 and \$30 respectively. Text messages will be valued at one talk minute per message sent and/or received. Subscribers who use the service outside of True Wireless' service area incur a roaming charge of \$0.59 per minute. The rate for directory assistance calls is \$2 per request. True Wireless blocks international calls for its Lifeline subscribers at no additional charge.

VIII. TRUE WIRELESS' FINANCIAL AND TECHNICAL CAPABILITIES TO PROVIDE LIFELINE SERVICE

True Wireless has been providing service since mid-2010 and focuses on providing service to low income consumers. To date, the company has been designated as an ETC in five states: Arkansas, Maryland, Oklahoma, Rhode Island and Texas. True Wireless also has ETC petitions pending with regulatory commissions in eight states,⁶ and an ETC petition pending with the Commission that applies in nine states.⁷ True Wireless does not seek, and will not accept, High Cost support in any of those states, or in the states in which it currently provides service.

True Wireless is successfully providing Lifeline supported services in the various states where it has received ETC designation and has a steadily increasing customer base. True Wireless owns and operates its own switching facilities, back-office and operations support systems ("OSS") that are ideally suited to serve lower revenue subscribers. True Wireless has invested millions of dollars to evaluate, design, develop and integrate these systems.

⁶ Those states include Georgia, Idaho, Louisiana, Missouri, West Virginia, Wisconsin and Wyoming. True Wireless is in the process of withdrawing (without prejudice) its petitions in Kansas, Kentucky and New Jersey. Its petition in Mississippi has been retired without prejudice. Those states have indicated a preference for ETCs to refile their petitions subsequent to Commission approval of their compliance plan.

⁷ As described in section I above, the states included in True Wireless' petition are: Alabama, Connecticut, Delaware, Florida, New Hampshire, New York, North Carolina, Tennessee and Virginia. In this Amendment, True Wireless also is requesting authority to serve the District of Columbia.

True Wireless is financially stable and fully capable of honoring its service obligations to customers and federal and state regulatory obligations. Although True Wireless derives the majority of its revenue from the sale of prepaid wireless services, True Wireless does not rely exclusively on USF disbursements to operate. For example, True Wireless derives additional revenue from the sale of wireless services with respect to certain of its wireless plans that are not fully covered by the Lifeline subsidy, the sale of wireless services to non-Lifeline customers, the sale of replenishment airtime minutes, and the sale of optional service packages (*e.g.*, Internet/text services).

Finally, True Wireless has not been subject to any enforcement action or ETC revocation proceeding in any state.

IX. CONCLUSION

True Wireless submits that its Petition, as amended herein, fully satisfies the conditions set forth in the *Lifeline Reform Order*, the *Public Notice* and the Commission's rules pertaining to Lifeline. Accordingly, True Wireless respectfully requests expeditious approval of its ETC Petition as amended herein and its Compliance Plan so that True Wireless may provide service to eligible low income consumers in the amended Designated Service Area.

Respectfully submitted,



By:

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James W. Tomlinson
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Suite 800

Washington, D.C. 20006-3401
(202) 973-4242

Counsel to True Wireless, LLC

March 29, 2012


CERTIFICATION

I, Brian Cox, certify that I am Chief Executive Officer of True Wireless, LLC ("True Wireless"); that I am authorized to make this certification on behalf of True Wireless; that the foregoing amendment to True Wireless' petition was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information and belief.

I certify that True Wireless will comply with the service requirements applicable to the support that it receives under the Low Income program.

I also certify that, to the best of my knowledge, True Wireless, including all officers, directors, and all persons holding five percent or more of the outstanding stock or shares (voting and/or non-voting) of True Wireless, are not subject to denial of benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998.

I certify under penalty of perjury that the foregoing is true and correct.


Brian Cox

Executed this __ day of March, 2012

Exhibit C



Public Service Commission of the District of Columbia
1333 H Street, N.W., 2nd Floor, West Tower
Washington, D.C. 20005
(202) 626-5100
www.dcpsc.org

July 28, 2010

Mr. Lance J.M. Steinhart
Counsel for i-wireless, LLC
Lance J.M. Steinhart, PC
1720 Windward Concourse, Suite 115
Alpharetta, GA 30005

Dear Mr. Steinhart:

Thank you for your July 23, 2010 letter stating i-wireless LLC's ("i-wireless") intent to be designated as an eligible telecommunications carrier in the District of Columbia. Please be advised that, pursuant to section 34-2006(b) of the District of Columbia Code, the Public Service Commission of the District of Columbia ("Commission") does not have jurisdiction over wireless carriers. Thus, the Commission has no authority to designate i-wireless as an eligible telecommunications carrier.

Attached please find a copy of the relevant section of the District of Columbia Code for your information. Should you need anything further, please contact me at 202-626-5140 or rbeverly@psc.dc.gov.

Sincerely,

A handwritten signature in black ink, which appears to read "Richard A. Beverly", is positioned above the printed name and title.

Richard A. Beverly
General Counsel

Enclosure



LEXSTAT D.C. CODE 34-2006

LEXIS DISTRICT OF COLUMBIA CODE ANNOTATED

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*** CURRENT THROUGH DECEMBER 28, 2010 AND THROUGH D.C. ACT 18-676 ***

*** ANNOTATIONS CURRENT THROUGH NOVEMBER 18, 2010 ***

DIVISION V. LOCAL BUSINESS AFFAIRS

TITLE 34. PUBLIC UTILITIES

SUBTITLE V. TELECOMMUNICATIONS

CHAPTER 20. TELECOMMUNICATIONS COMPETITION

GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY

D.C. Code § 34-2006 (2011)

§ 34-2006. Exemptions [Formerly § 43-1456]

(a) This chapter shall not apply to cable television services performed pursuant to an existing cable television franchise agreement with the District of Columbia which is in effect on September 9, 1996. To the extent that a cable television company seeks to provide local exchange services within the District of Columbia, such company shall be regulated under the provisions of this chapter for their local exchange services.

(b) Pursuant to the federal Telecommunications Act of 1996, this chapter shall not apply to licensed or unlicensed wireless services authorized by the Federal Communications Commission operating in the District of Columbia.

(c) This chapter shall not:

(1) Apply to the provision, rates, charges, or terms of service of Voice Over Internet Protocol Service or Internet Protocol-enabled Service;

(2) Alter the authority of the Commission to enforce the requirements as are otherwise provided for, or allowed by, federal law, including the collection of Telecommunications Relay Service fees and universal service fees;

(3) Alter the authority of the Office of Cable Television and Telecommunications with respect to the provision of video services in the District of Columbia; or

(4) Alter the Commission's existing authority over the regulation of circuit-switched local exchange services in the District of Columbia.

D.C. Code § 34-2006

HISTORY: 1981 Ed., § 43-1456; Sept. 9, 1996, D.C. Law 11-154, § 7, 43 DCR 3736; June 5, 2008, D.C. Law 17-165, § 3(c), 55 DCR 5171.

NOTES: EFFECT OF AMENDMENTS. --D.C. Law 17-165 added (c).

LEGISLATIVE HISTORY OF LAW 11-154. --See note to § 34-2001.

LEGISLATIVE HISTORY OF LAW 17-165. --See note to § 34-2001.

LexisNexis 50 State Surveys, Legislation & Regulations

Telecommunications & Telephones